

PATENT

Serial No. 10/564,910

Amendment in Reply to Office Action mailed on July 8, 2008
and the Notice of Abandonment of February 9, 2009

REMARKS

This Amendment is being filed in response to the Final Office Action mailed July 8, 2008, and the Notice of Abandonment of February 9, 2009, which have been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1 and 3-15 remain in this application, where claim 2 has been canceled without prejudice and claims 10-12 have been added. Claims 1, 7 and 8 are independent.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

By means of the present amendment, claims 1 and 3-9 have been amended for non-statutory reasons, such as for better form including beginning the independent claims with 'A', beginning the dependent claims with 'The', and deleting reference numerals typically used in European practice that are known to not limit the

PATENT

Serial No. 10/564,910

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scope of the claims. Such amendments to claims 1 and 3-9 were not made in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Office Action, the Examiner objected to the drawings for not labeling FIGs 3a and 3b as Prior Art. In response, FIGs 3a and 3b have been amended to include the legend --Prior Art--. A replacement sheet including FIGs 3a and 3b is enclosed. Applicants respectfully requests approval of the enclosed proposed drawing changes and withdrawal of the drawing objection.

In the Office Action, the Examiner noted the absence of a claim of priority in the specification under 35 U.S.C. §119. It is respectfully submitted that the present application claims priority under 35 U.S.C. §119(a)-(d), which is properly claimed in the Declaration, and has been acknowledged on the Filing Receipt and correctly published in the equivalent publication, namely, U.S. Patent Application Publication No. 2006/0230330. As the claim of priority is not under 35 U.S.C. §119(e) or 35 U.S.C. §120, it is believed that there is no need for a specific reference in the first sentence of the specification.

PATENT

Serial No. 10/564,910

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In the Office Action, claim 9 is rejected under 35 U.S.C. §101. This rejection is respectfully traversed. However, to advance prosecution, claim 9 has been amended to better recite statutory subject matter. It is respectfully submitted that this rejection of claim 9 has been overcome. Accordingly, withdrawal of this rejection is respectfully requested.

In the Office Action, claims 1-9 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,075,804 (Deyring) in view of EP 0,971,349 (Hitachi) and U.S. Patent No. 6,0530,037 (Ando). Applicants respectfully traverse and submit that claims 1 and 3-15 are patentable over Deyring, Hitachi and Ando for at least the following reasons.

Deyring is directed to a method of managing media defects in disk drives that keeps a list of the tracks in the disk drive, and for each track enters on the list the number of good sectors. Thus, the information on the list is sufficient for the disk drive microprocessor to avoid use of the defective sectors, each of which is labeled in its header as being defective. As correctly noted by the Examiner on pages 4-5 of the Office Action, Deyring does not

PATENT

Serial No. 10/564,910

Amendment in Reply to Office Action mailed on July 8, 2008
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teach or suggest setting the record carrier to the read-only state by reading original replacement information indicating a writable state from the defect management area, where the original replacement information at least include at least one defect entry being free for use, and modifying the defect management information to the no-replacement state, as recited in independent claims 1, 7 and 8. Hitachi is cited in an attempt to remedy the deficiencies in Deyring.

Hitachi is directed to a method in which immediately after the recording operation is started, a recording medium is searched to find a vacant region of which length is too short to carry out seamless recording. This vacant region is set to a recording prohibiting region, and thereafter data is recorded. On page 5 of the Office Action, it is alleged that paragraph [0017] and FIG 3 of Hitachi discloses setting the record carrier to the read-only state via a no-replacement state indicated by substantially none of the defect entries being free for use, as recited in independent claims 1, 7 and 8.

Applicants respectfully disagree and submit that paragraph

[0017] and FIG 3 of Hitachi, merely disclose to first find short vacant regions, set them as recording prohibiting regions, and then record data.

Assuming arguendo, that somehow paragraph [0017] and FIG 3 of Hitachi disclose or suggest setting the record carrier to the read-only state via a no-replacement state, it is respectfully submitted that Deyring, Hitachi, and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claims 7 and 8 which, amongst other patentable elements, recites (illustrative emphasis provided) :

wherein the read-only control means include re-open means for resetting the record carrier from the read-only state to the writable state by:

retrieving the original replacement information from the hidden location,

modifying the defect management information to the writable state in dependence of the original replacement information.

These features are nowhere taught or suggested Deyring, Hitachi, and combination thereof. Rather, Hitachi merely discloses to find and set short vacant regions as recording prohibiting

PATENT

Serial No. 10/564,910

Amendment in Reply to Office Action mailed on July 8, 2008
and the Notice of Abandonment of February 9, 2009

regions, and then record data. Ando is cited to allegedly show other features and do not remedy the deficiencies Deyring and Hitachi.

Accordingly, it is respectfully submitted that independent claims 1, 7 and 8 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 3-6 and 9-15 should also be allowed at least based on their dependence from independent claims 1, 7 and 8.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

PATENT

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In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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Enclosure: Petition to Revive
Replacement drawing sheet (1 sheet including FIGs 3a
and 3b)

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